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From: Scott Niedzwiecki <sniedzwiecki@google.com>
Sent: Friday, February 28, 2020 7:59 PM
To: Dov B. Gold <dgold@seidenlegal.com>
Cc: Robert Seiden <rseiden@seidenlegal.com>; Steven Seiden <sseiden@seidenlegal.com>
Subject: Re: Court Appointed Receivership - Link Motion, Inc.

Dear Mr Gold:

The Court's September 25, 2019 order states that "Google is directed to remit any funds belonging to Link Motion Inc. to the Receiver's escrow account or to another Link Motion, Inc. controlled by the Receiver, until such time as the Receiver or this Court directs otherwise." Google has fully complied with that order. The Receiver stands in the shoes of Link Motion Inc. with respect to its agreements with Google and the Court's orders do not grant the Receiver any greater rights than the company has under the agreements, including the right to payments. The Court's orders do not alter Link Motion Inc.'s agreements with Google, nor could they do so. See *Eberhard v. Marcu*, 530 F.3d 122, 132 (2d Cir. 2008) ("More fundamentally, the authority of a receiver is defined by the entity or entities in the receivership. 'The plaintiff in his capacity of receiver has no greater rights or powers than the corporation itself would have.' A receiver may commence lawsuits, but 'stands in the shoes of the corporation and can assert only those claims which the corporation could have asserted.'"). Google has remitted the funds in the Link Motion Inc. account in a manner consistent with the Court's orders and Link Motion Inc.'s agreements with Google.

In response to your concerns that Link Motion funds have been diverted away from the Receiver, Google has reviewed the account activity and confirmed that no funds have been diverted. (One point of clarification from your summary email - Google explained that it does not proactively monitor account changes or funds diversion, not that Google cannot confirm or investigate a claim of funds being diverted. Here, Google did investigate account activity to determine whether funds had been diverted). Attached is a payment history for the account from January 2019 to February 27, 2020, along with a certificate of authenticity. Upon reviewing the earning history, you will notice that earnings, listed in Hong Kong dollars, have steadily declined on a monthly basis from June 2019 through the present.

Please note the July 17, 2019 “Other Debit” entry. This entry corresponds to the funds that were designated for wire transfer which occurred on or around October 16, 2019. There are also 4 “Other Debit” entries on January 28, 2020 that relate to earnings that were removed from the account because of advertising violations. The funds in the account were generated in violation of Google’s terms of service are not “funds belonging to Link Motion Inc.” that the Court ordered turned over to the Receiver. Furthermore, the account has been disabled due to the advertising violations.

Regarding account access, Google reiterates what has been communicated numerous times over several phone calls. Google cannot provide the Receiver account access because Google does not store passwords, a password reset would not help the receiver because the receiver does not control the email associated with the Link Motion account, and, even if Google did store the account password, Google may not be able to provide this information per applicable privacy laws that regulate real-time access to accounts and disclosure of the content stored in them. See 18 U.S.C. § 2511, et seq.; § 2701, et seq.

At this point, Google has fully satisfied the September 25, 2019 order and any obligations that the Receiver claims Google has to comply with the February 1, 2019 order appointing the Receiver.

Regards,
Scott

Scott Niedzwiecki | Discovery Staff Attorney | sniedzwiecki@google.com |

On Tue, Feb 25, 2020 at 12:18 PM Dov B. Gold <dgold@seidenlegal.com> wrote:

Mr. Niedzwiecki,

On our call today you reiterated Google’s position that it will not grant the Court-Appointed Receiver access to Link Motion, Inc.’s accounts with Google that would ensure the revenue generated by its Apps and any funds belonging to Link Motion, Inc. are remitted to the Receiver’s escrow account. Google has not articulated any legal basis for refusing to grant the Receiver access to Link Motion, Inc.’s accounts. Please note the attached court order directed Google to “remit any funds belonging to Link Motion, Inc. to the Receiver’s escrow account or to another Link Motion, Inc. controlled by the Receiver, until such time as the Receiver or this Court directs otherwise.”

I reiterated that the Receiver has no cooperation from Link Motion, Inc. or its employees and that it is a very reasonable request under the circumstances that Google grant the Receiver access to all Link Motion, Inc. accounts. Further, it appears that funds and/or Apps have now been diverted away from the Receiver and months of revenue purportedly only total \$32. Google explained that it cannot confirm or investigate this as only the account holder has access to this information. I will also note that it took Google about 2 weeks to answer a request for an account balance.

I explained that the Receiver would be forced to apply to the Court for relief against Google and/or a further order directing Google to grant the Receiver access to all of Link Motion, Inc.’s accounts. Google said it would discuss this internally and revert by Friday, February 28, 2020.

Thank you,

Dov

Dov Byron Gold, Esq.

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